

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2079

Introduced by Assembly Member Emmerson

February 19, 2008

An act to ~~add Section 110673 to~~ amend Section 112910 of, to add Section 110673 to, and to repeal Sections 112885 and 112890 of, the Health and Safety Code, relating to ~~misbranded~~ food.

LEGISLATIVE COUNSEL'S DIGEST

AB 2079, as amended, Emmerson. ~~Misbranded food: allergen labeling. Food.~~

Existing law, the Sherman Food, Drug, and Cosmetic Law, makes it unlawful for any person to misbrand any food. Misbranded food includes food that is labeled in a manner that does not conform with requirements for nutrition labeling and nutrient content or health claims set forth in the federal Food, Drug, and Cosmetic Act. Violation of these provisions is a crime.

This bill would deem food to be misbranded if its labeling does not conform with requirements for allergen labeling set forth in the federal Food, Drug, and Cosmetic Act. By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law, the Sherman Food, Drug, and Cosmetic Law, requires any person in this state who engages in the packaging or manufacture of olive oil, or in the wholesale distribution of olive oil where his or her name and address will appear on containers of one pint capacity or larger as the distributor and his or her name will appear on the containers as the only California addressee to have a license from the State Department of Public Health. Under existing law, the department

is required to issue a nontransferable license, free of charge, to qualified applicants, as specified, and may revoke or suspend the license after a hearing.

This bill would repeal these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 110673 is added to the Health and Safety
2 Code, to read:

3 110673. Any food is misbranded if its labeling does not
4 conform with the requirements for food allergen labeling as set
5 forth in Section 403(w) of the federal act~~(21~~ act (21 U.S.C. Sec.
6 343(w)) and the regulations adopted pursuant thereto. Any food
7 exempted from those requirements under the federal act, shall also
8 be exempt under this section.

9 SEC. 2. Section 112885 of the Health and Safety Code is
10 repealed.

11 ~~112885. Unless a license so to do is first obtained from the~~
12 ~~department, it is unlawful for any person in this state to engage in~~
13 ~~the packaging or manufacture of olive oil, or in the wholesale~~
14 ~~distribution of olive oil where his or her name and address will~~
15 ~~appear upon olive oil containers of one pint capacity or larger, as~~
16 ~~the distributor and his or her name will appear upon the containers~~
17 ~~as the only California addressee.~~

18 SEC. 3. Section 112890 of the Health and Safety Code is
19 repealed.

20 ~~112890. On receipt of an application showing that the applicant~~
21 ~~is properly equipped to package or manufacture olive oil, or is a~~
22 ~~wholesale distributor of olive oil whose name and address will~~
23 ~~appear upon olive oil containers as distributor and whose name~~
24 ~~also will appear upon those containers as the only California~~
25 ~~addressee, the department shall, free of charge, issue the applicant~~

1 a license, not transferable, but good until revoked, to package,
2 manufacture, or distribute olive oil as the case may be.

3 ~~The department may revoke or suspend the license after a~~
4 ~~hearing. The proceedings for the revocation or suspension of a~~
5 ~~license shall be in accordance with Chapter 5 (commencing with~~
6 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
7 ~~Code, and the department shall have all the powers granted in that~~
8 ~~chapter.~~

9 *SEC. 4. Section 112910 of the Health and Safety Code is*
10 *amended to read:*

11 112910. All records of those ~~licensed~~ *operating* under the
12 provisions of this chapter that concern the amounts of olive oil
13 produced, purchased, or produced and purchased, or the sale,
14 distribution, or sale and distribution of any olive oil, shall be open
15 to inspection upon demand of any agent of the department.

16 ~~SEC. 2:~~

17 *SEC. 5.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

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28 CORRECTIONS:

29 Text — Page 2.
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